

# Expanding the Legal Curriculum: Rethinking the Teaching of Law

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What is striking to an outsider about the focus of German legal scholarship is the extent to which it centres on a canonical and dogmatic approach to the interpretation of law. This emerges very clearly from the [report](#) prepared by the German Council of Science and Humanities and translated under the auspices of the programme Rechtskulturen. At the same time, there is recognition of the need to develop legal scholarship beyond these frames of reference to engage law in a wider system of higher education and academic research. This not only requires a rethinking of the curricular design to allow for a wider range of courses and methodological approaches to the study of law but also how such courses might be taught and examined in new ways that depart from the current, centralised administrative structure that exists in Germany. Examples of the kind of courses that might be incorporated into the law degree include Socio-Legal Studies (e.g. [University of Bristol](#) see under LAWD30122), Law, Culture and Rights in a Transnational World ([Edinburgh University](#)), Law and Social Change ([Kent University](#)), Law and Society: Regulating Communities ([Kent University](#)) and Law, Anthropology and Society ([MSc, London University \(LSE\)](#)). Such courses are valuable because they situate law in context, going beyond abstract legal propositions to engage with how law forms part of the social world that it inhabits.

Such courses also allow for exploring how a whole range of social actors, for individuals view law both within and across national boundaries. Within my own jurisdiction, that of Scotland, this has involved empirical work over the years, such as that carried out by Hazel Genn and Alan Paterson on the extent to which people resort to law to settle contentious issues in [Paths to Justice Scotland](#) (2001). This research explores what people in Scotland do and think about going to law. More recently, work has been done by [Jane Mair and Fran Wasoff \(2013\) on the content of Minutes of Agreement](#) that couples reach on dissolution of their relationship, showing how far what is agreed upon in practice diverges from the normative legal framework that is in place, raising questions about what is, in fact, guiding practice in family law in Scotland. For what is happening in practice appears to have little to do with doctrinal approaches to law in this area. As the report acknowledges, in examining legal principles it is "necessary to research the societal premises and effects of the manner in which the law operates" (p.34).

Such perspectives are valuable because they provide a counterpoint to assumptions that are made about why and when people turn to law and how they make use of law. They are also important today, given the way in which law forms part of a more global, transnational world where differing and often competing normative systems come into play, especially in the field of human rights. For such perspectives may include those of migrants moving across national borders, who may bring their law (especially personal law) to their new host countries, or those of state officials,

or companies, or non-governmental organisations who operate in a number of localities situated in more than one country, bringing them into contact with plural legal systems. Thus there is a need to rethink the ways in which law intersects with local, national and transnational domains in taking account of the 'Europeanisation' and 'internationalisation' of law that is referred to in the report.

A major obstacle to developing the curriculum in this way in Germany appears to be the way in which a law degree is structured. In my own jurisdiction, we have a four year undergraduate degree in law that allows for professional subjects to be studied in the first two years and for students to choose three honours subjects in their third year and two in their fourth year that also includes writing a dissertation on a subject of their choice. The advantage of this system is that it allows students to acquire the professional subjects required by the Law Society of Scotland while giving them more flexibility in their last two years to study what they wish. For those going into the profession there is then a diploma in legal practice (1 year) where student study advocacy, written pleadings etc. In this way, professional subjects fit in with the undergraduate degree, after which students can do the diploma followed by a two year in-office traineeship to become a solicitor, advocate or solicitor/advocate.

The difficulty with the German system seems to be the way in which students have to be examined by a central authority that requires students to follow a standard programme for examination. In Scotland, the Law Society looks at the general content of professional courses but leaves each university to set its own examinations as it sees fit. Would it be possible to change the central examination system in Germany, or at least, to provide for some standard exams for part of the curriculum, allowing for other parts of the curriculum to be examined by German universities individually? In other words, could the examining process be split? The report makes reference to the need for diversification through the provision of joint degrees that will provide students with degrees containing some legal content but little is said about changing the actual structure of teaching and examining the law degree itself. This report could provide a catalyst for change that would open up German legal scholarship to "intensifying exchanges within and outside the discipline" as well as opening it up to other academic disciplines" (p.13) while allowing for the "emergence of alternative processes of law and norm creation which give rise to new forms of law" (p.13). For this to happen, the doctrinal approach has to be tempered with other approaches to law. In my view this can only be achieved through broadening the legal curriculum itself, and not just with regard to offering a broader set of options for those students who do not wish to become professional lawyers. Reforming the general curriculum to take account of these aspects of law would better equip the German system to meet the future challenges faced by legal research set out in page 39 of the report.

Such reform could also help to integrate more practical skills into the programme. This is something that the report notes is of concern to lawyers' interest groups, who consider that practical skills, such as rhetorical training ,negotiation management and forms of mediation, should comprise a more important part of the law curriculum. As part of our general legal education at Edinburgh we run compulsory in-house mooted competitions and provide students with the opportunity to work in legal

clinics thereby helping students to improve their practical, research skills in ways that not only contribute to their capacity to critically analyse law, but that also allow them to view lawmaking and implementation as “an essential part of the legal curriculum” (page 66). We are currently exploring the possibility of allowing for work experience to count as part of the degree programme. However, the report does note that where practical skills training has been offered in Germany, students did not view these courses as being particularly satisfactory. It would be interesting to do more research on this to find out why this is the case and what could be done to improve the situation, such as allowing for greater hands on experience outside the classroom.

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